HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 16007 of 2007

Between:

Battu Raghu Ramaiah

... Petitioner

And

The Government of Andhra Pradesh,
Rep. By its Secretary to Government,
Law Department, Hyderabad & others

... Respondents

:: O R D E R ::

Counsel for the petitioner : Shri B. Tarakam,
Senior Counsel assisted by
Shri V. Raja Manohar

July 27, 2007

Per G.S. Singhvi, CJ

It is settled law that recommendations made by Public Service Commissions and similar bodies do not create an indefeasible right in favour of the selected candidates and that the appointing authority has the discretion to accept or not to accept the recommendations. It is also well-settled that till the recommendations made by the recruiting agency are accepted and translated into appointment, the Court cannot issue a mandamus to the appointing authority to appoint the selected candidates. If the appointing authority arbitrarily rejects or

withholds action on the recommendations of the recruiting agency, then the aggrieved person can seek intervention of the Court. If a person is aggrieved by the recommendations of the recruiting agency, then he can represent to the appointing authority not to act upon the same by showing concrete evidence of the violation of law or the doctrine of equality. It is also open to the aggrieved person to show that the recommendations are vitiated by arbitrariness or mala fides. In such matters, a writ petition filed by an unsuccessful candidate cannot be entertained by presuming that the appointing authority will necessarily accept the recommendation even though the same may be contrary to law or the extant policy or instructions or is tainted by bias or mala fides. The Court's disinclination to interfere in such matters at the stage of recommendation is amply reflected in the judgments of the Supreme Court in **G. Sarana, Dr. v. University of Lucknow**[1] and **Kunda S. Kadam v. K.K. Soman**[2].

We have made a mention of the above-stated legal position because after going through the affidavit of the petitioner – Battu Raghu Ramaiah and hearing Shri Bojja Tarakam, Senior Advocate appearing on his behalf, we are convinced that the stage has not reached for this Court's interference with the recommendations made by District Magistrate, Nellore for appointment of Government Pleaders in that district.

The petitioner's grievance is that while recommending the names of advocates for appointment as Government Pleaders in the district, respondent Nos. 2 and 3 have not followed the instructions issued by the government vide G.O.Ms.No.187, Law (L) Department dated 06.12.2000 and not a single candidate belonging to the reserved categories of Scheduled Caste, Scheduled Tribes and Backward

Classes has been included in the panel.

Shri B. Tarakam fairly stated that the recommendations made by the District Magistrate have not been acted upon so far, but argued that if the Court does not intervene at this stage, irreparable injury will be caused to the members of the reserved communities. Learned Senior Counsel submitted that non-appointment of a single candidate of the reserved categories in last more than four decades should, by itself, be treated as sufficient for drawing an inference that the district authorities are biased against them.

We have given serious thought to the submissions of the learned counsel which, though appear attractive, cannot be accepted. This Court cannot entertain the petitioner's plea for invalidation of the recommendations by presuming that the appointing authority will necessarily ignore the representation, if any, made by the petitioner and will sanctify the violation of the policy contained in G.O.Ms.No.187. Rather, we can take judicial notice of the well-recognized proposition that the State and its functionaries are presumed to act in accordance with law. Even the policy instructions issued by the State, in exercise of its executive power, can occupy the vacant field and are binding on the concerned authorities and we do not have the slightest doubt that the competent authority will keep in mind the instructions and then take appropriate decision on the recommendations made by the District Collector for appointment of the Government Pleaders.

With the above observation, the writ petition is dismissed as premature.

Needless to say that if the recommendations made by the District Collector, Nellore are accepted by the competent authority and the empanelled candidates are appointed ignoring the violation of the

instructions contained in G.O.Ms.No.187, the petitioner or any other aggrieved person will be free to seek intervention of this Court.

As a sequel to dismissal of the writ petition, W.P.M.P.No.20331 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 27, 2007

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[1] AIR 1976 SC 2428

[2] AIR 1980 SC 881 = (1980) 2 SCC 355